

SUPREME COURT OF FLORIDA

Martinez v. Florida Power & Light Company

863 So. 2d 1204 (Fla. 2003) · No. SC01-1505 · Decided December 18, 2003

SUMMARY

The Supreme Court of Florida quashed the district court’s decision affirming judgment on the pleadings for Florida Power & Light Company in a negligence action arising from an inoperative streetlight and a child’s death. The court remanded for proceedings consistent with Clay Electric, including consideration of whether the utility assumed a specific legally recognized duty to maintain the streetlight with due care.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Anstead, Chief Justice; Pariente, Justice; Lewis, Justice; Quince, Justice; Shaw, Senior Justice; Cantero, Justice; Wells, Justice
JURISDICTION	Florida
DECIDED	December 18, 2003
DOCKET	SC01-1505
DISPOSITION	quashed
PROCEDURAL POSTURE	The Supreme Court of Florida reviewed a district court decision affirming the circuit court's grant of Florida Power & Light Company's motion for judgment on the pleadings in a negligence action arising from an inoperative streetlight.
STANDARD OF REVIEW	De novo review applies on remand; a motion for judgment on the pleadings is evaluated under the same standard as a motion to dismiss for failure to state a cause of action, accepting well-pleaded material allegations and fair inferences as true.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Ivan Martinez, et al., as personal representatives of Albert Martinez's estate v. Florida Power & Light Company

TOPICS

- negligence
- duty of care
- motion for judgment on the pleadings
- appellate procedure
- standard of review

PRACTICE AREAS

torts

negligence

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly granted Florida Power & Light Company's motion for judgment on the pleadings in the negligence action.
2. Whether the district court's affirmance should be quashed in light of the Supreme Court of Florida's contemporaneous decision in *Clay Electric Cooperative, Inc. v. Johnson* concerning a utility's potentially assumed duty to maintain streetlights.
3. What standard governs review of the judgment on the pleadings on remand.

HOLDINGS

1. The Supreme Court of Florida quashed the district court's decision and remanded for proceedings consistent with *Clay Electric*, which recognized that a utility may assume a specific, legally recognized duty to act with due care in maintaining streetlights.
2. On remand, review is *de novo*, and the court must treat all well-pleaded material allegations and fair inferences from the complaint as true and determine whether the complaint states a cause of action.

KEY QUOTATIONS

"In passing on such motion made by defendant all well pleaded material allegations of the complaint and all fair inferences to be drawn therefrom must be taken as true and the inquiry is whether the plaintiff has stated a cause of action by his complaint." (863 So. 2d at 1205)

"The test we apply in this instance is the same as if defendant has made a motion to dismiss the complaint for 'failure to state a cause of action'...." (863 So. 2d at 1205)

FACTUAL BACKGROUND

On November 4, 1996, Albert Martinez was crossing a two-lane road in early evening darkness when a sport utility vehicle struck and killed him. The collision occurred in an area where a streetlight was inoperative. His parents, acting as personal representatives of his estate, asserted a negligence claim against Florida Power & Light Company, the streetlight maintenance company.

PROCEDURAL HISTORY

The decedent's parents, acting as personal representatives of his estate, sued Florida Power & Light Company and others for negligence. The circuit court granted Florida Power & Light's motion for judgment on the pleadings, and the Third District Court of Appeal affirmed. The Supreme Court accepted review based on express and direct conflict, subsequently approved the relevant decisions in *Clay Electric*, and quashed the decision below.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The decision of the Florida Third District Court of Appeal is quashed, and the case is remanded for proceedings consistent with *Clay Electric Cooperative, Inc. v. Johnson*, applying de novo review and the stated judgment-on-the-pleadings standard.

CASES CITED

- *Martinez v. Florida Power & Light Co.*, 785 So. 2d 1251 (Fla. 3d DCA 2001)
- *Clay Electric Cooperative, Inc. v. Johnson*, Nos. SC01-1955 & SC01-1956, 2003 WL 22966277 (Fla. Dec. 18, 2003)
- *Johnson v. Lance, Inc.*, 790 So. 2d 1144 (Fla. 1st DCA 2001)
- *Lance, Inc. v. Johnson*, 790 So. 2d 1163 (Fla. 1st DCA 2001)
- *Reinhard v. Bliss*, 85 So. 2d 131, 133 (Fla. 1956)
- *Armstrong v. Harris*, 773 So. 2d 7, 11 (Fla. 2000)

OPINION

PER CURIAM.

863 So.2d 1204 (2003) *Ivan MARTINEZ, etc., et al., Petitioners, v. FLORIDA POWER & LIGHT COMPANY*, Respondent. No. SC01-1505. Supreme Court of Florida. December 18, 2003. Stewart G. Greenberg, P.A., Miami, Elizabeth K. Russo of Russo Appellate Firm, Miami, FL; and Dennis R. Schutt of Schutt Humphries, Jacksonville, FL, for Petitioners. Robert Boan, FPL Law Department, Miami, Mark Hicks and Ralph O. Anderson of Hicks, Anderson & Kneale, P.A., Miami, FL, for Respondent.

Charles T. Wiggins and R. Andrew Kent of Beggs & Lane, LLP, Pensacola, FL, for Gulf Power Company, Amicus Curiae. Joel D. Eaton of Podhurst, Orseck, Josefsberg, Eaton, Meadow, Olin & Perwin, P.A., Miami, FL, for the Academy of Florida Trial Lawyers, Amicus Curiae. Timothy C. Conley and David W. McCreadie of Lau, Lane, Pieper, Conley & McCreadie, P.A., Tampa, FL, for Tampa Electric Company and Edison Electric Institute, Amici Curiae.

SHAW, Senior Justice. We have for review *Martinez v. Florida Power & Light Co.*, 785 So.2d 1251 (Fla. 3d DCA 2001) (hereinafter "*Martinez*"), which expressly and directly conflicts with *Clay Electric Cooperative, Inc. v. Johnson*, Nos. SC01-1955 & SC01-1956, ___ So.2d ___, 2003 WL 22966277 (Fla. Dec. 18, 2003) (hereinafter "*Clay Electric*").

We have jurisdiction. See art. V, § 3(b)(3), Fla. Const. The pertinent facts as alleged in the complaint are as follows. On November 4, 1996, a child named Albert Martinez was crossing a

two-lane road during the early evening darkness when he was struck and killed by a sports utility vehicle in an area where a streetlight was inoperative.

The force of the impact threw the child's body approximately one hundred feet from the site of the collision. Albert's parents, acting as personal representatives of his estate, filed a negligence claim against, inter alia, the streetlight maintenance company, Florida Power and Light Company. ("FP & L").

After filing its answer, FP & L moved for judgment on the pleadings, claiming that "[the] failure to maintain a streetlight does not create a risk greater than the risk created by the total absence of streetlights."

The circuit court granted the motion, and the district court affirmed. Albert's parents sought review based on conflict with *Johnson v. Lance, Inc.*, 790 So.2d 1144 (Fla. 1st DCA 2001) (hereinafter "*Johnson* "), and *Lance, Inc. v. Johnson*, 790 So.2d 1163 (Fla. 1st DCA 2001) (hereinafter "*Lance*").

We granted review in *Martinez, Johnson, and Lance*, consolidated *Johnson and Lance*, and reviewed *Martinez* separately. We subsequently approved both *Johnson* and *Lance* in *Clay Electric*, wherein we ruled narrowly: *1205 In the present cases, we conclude that the trial court erred in granting *Clay Electric's* motion for summary judgment. Viewing the record, the undisputed facts, and all reasonable inferences therefrom in the light most favorable to the nonmoving parties, we hold that the plaintiffs have adequately shown that *Clay Electric* assumed a specific, legally recognized duty to the plaintiffs to act with due care in maintaining the streetlights.

Clay Electric, slip op. at 8, ___ So.2d at ___. Because the district court below did not have the benefit of *Clay Electric* when it rendered its decision in *Martinez*, we quash *Martinez* and remand for proceedings consistent with *Clay Electric*.

On remand, the standard of review is de novo^[1] and the criterion for analyzing the trial court's judgment on the pleadings is as follows: In passing on such motion made by defendant all well pleaded material allegations of the complaint and all fair inferences to be drawn therefrom must be taken as true and the inquiry is whether the plaintiff has stated a cause of action by his complaint.

The test we apply in this instance is the same as if defendant has made a motion to dismiss the complaint for 'failure to state a cause of action'.... The allegations of the defendant's answer are of no avail to him at a hearing on defendant's motion for decree on the pleadings. *Reinhard v. Bliss*, 85 So.2d 131, 133 (Fla. 1956). It is so ordered. ANSTEAD, C.J., and PARIENTE, LEWIS and QUINCE, JJ., concur.

CANTERO, J., dissents with an opinion, in which WELLS, J., concurs. CANTERO, J., dissenting. For the reasons stated in my dissent in Clay Electric Cooperative, Inc. v. Delores Johnson, et al., SC01-1955, I dissent in this case as well. WELLS, J., concurs. NOTES [1] See generally Armstrong v. Harris, 773 So.2d 7, 11 (Fla.2000) ("[T]he standard of review for a pure question of law is de novo.").